

ASSEMBLY BILL

No. 1541

**Introduced by Committee on Privacy and Consumer Protection
(Assembly Members Gatto (Chair), Baker, Chau, Cooper, Dahle,
and Gordon)**

March 26, 2015

An act to amend Sections 22580, 22581, and 22584 of the Business and Professions Code and to amend Section 1798.81.5 of the Civil Code, relating to privacy.

LEGISLATIVE COUNSEL’S DIGEST

AB 1541, as introduced, Committee on Privacy and Consumer Protection. Privacy: personal information.

Existing law limits marketing to minors by an operator of an Internet Web site, online service, online application, or mobile application, as specified. Existing law requires the operator of an Internet Web site, online service, online application, or mobile application to permit a minor to remove, or to request and obtain removal of, content or information posted by the minor, as specified. Existing law prohibits an operator of an Internet Web site, online service, online application, or mobile application used primarily for school purposes from using a student’s information, as specified.

This bill would revise these provisions to specify that these laws pertain to an operator of an Internet Web site or online service, such as an online application or a mobile application.

Existing law requires a business that owns, licenses, or maintains personal information about a California resident to implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from

unauthorized access, destruction, use, modification, or disclosure. Existing law defines terms for purposes of this law, including “personal information.”

This bill would update the definition of personal information to include health insurance information, as defined, and a username or email address combined with a password or security question and answer for access to an online account.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 22580 of the Business and Professions
2 Code is amended to read:
3 22580. (a) An operator of an Internet Web site, ~~online service,~~
4 ~~online application, or mobile application site or online service,~~
5 *such as an online application or a mobile application*, directed to
6 minors shall not market or advertise a product or service described
7 in subdivision (i) on its Internet Web site, ~~online service, online~~
8 ~~application, or mobile application site or online service, such as~~
9 *an online application or a mobile application*, directed to minors.
10 (b) An operator of an Internet Web site, ~~online service, online~~
11 ~~application, or mobile application site or online service, such as~~
12 *an online application or a mobile application*:
13 (1) Shall not market or advertise a product or service described
14 in subdivision (i) to a minor who the operator has actual knowledge
15 is using its Internet Web site, ~~online service, online application,~~
16 ~~or mobile application site or online service, such as an online~~
17 *application or a mobile application*, and is a minor, if the
18 marketing or advertising is specifically directed to that minor based
19 upon information specific to that minor, including, but not limited
20 to, the minor’s profile, activity, address, or location sufficient to
21 establish contact with a minor, and excluding Internet Protocol
22 (IP) address and product identification numbers for the operation
23 of a service.
24 (2) Shall be deemed to be in compliance with paragraph (1) if
25 the operator takes reasonable actions in good faith designed to
26 avoid marketing or advertising under circumstances prohibited
27 under paragraph (1).

1 (c) An operator of an Internet Web ~~site, online service, online~~
2 ~~application, or mobile application~~ *site or online service, such as*
3 *an online application or a mobile application*, directed to minors
4 or who has actual knowledge that a minor is using its Internet Web
5 ~~site, online service, online application, or mobile application, site~~
6 ~~or online service, such as an online application or a mobile~~
7 ~~application~~, shall not knowingly use, disclose, compile, or allow
8 a third party to use, disclose, or compile, the personal information
9 of a minor with actual knowledge that the use, disclosure, or
10 compilation is for the purpose of marketing or advertising products
11 or services to that minor for a product described in subdivision (i).

12 (d) “Minor” means a natural person under 18 years of age who
13 resides in the state.

14 (e) “Internet Web ~~site, online service, online application, or~~
15 ~~mobile application~~ *site or online service, such as an online*
16 *application or a mobile application*, directed to minors” mean an
17 Internet Web ~~site, online service, online application, or mobile~~
18 ~~application, site or online service, such as an online application~~
19 ~~or a mobile application~~, or a portion thereof, that is created for the
20 purpose of reaching an audience that is predominately comprised
21 of minors, and is not intended for a more general audience
22 comprised of adults. Provided, however, that an Internet Web ~~site,~~
23 ~~online service, online application, or mobile application, site or~~
24 ~~online service, such as an online application or a mobile~~
25 ~~application~~, or a portion thereof, shall not be deemed to be directed
26 at minors solely because it refers or links to an Internet Web ~~site,~~
27 ~~online service, online application, or mobile application site or~~
28 ~~online service, such as an online application or a mobile~~
29 ~~application~~, directed to minors by using information location tools,
30 including a directory, index, reference, pointer, or hypertext link.

31 (f) “Operator” means any person or entity that owns an Internet
32 Web ~~site, online service, online application, or mobile application~~
33 ~~site or online service, such as an online application or a mobile~~
34 ~~application~~. It does not include any third party that operates, hosts,
35 or manages, but does not own, an Internet Web ~~site, online service,~~
36 ~~online application, or mobile application site or online service,~~
37 ~~such as an online application or a mobile application~~, on the
38 owner’s behalf or processes information on the owner’s behalf.

39 (g) This section shall not be construed to require an operator of
40 an Internet Web ~~site, online service, online application, or mobile~~

1 ~~application~~ site or online service, such as an online application
2 or a mobile application, to collect or retain age information about
3 users.

4 (h) (1) With respect to marketing or advertising provided by
5 an advertising service, the operator of an Internet Web-site, ~~online~~
6 ~~service, online application, or mobile application~~ site or online
7 service, such as an online application or a mobile application,
8 directed to minors shall be deemed to be in compliance with
9 subdivision (a) if the operator notifies the advertising service, in
10 the manner required by the advertising service, that the site, service,
11 or application is directed to minors.

12 (2) If an advertising service is notified, in the manner required
13 by the advertising service, that an Internet Web-site, ~~online service,~~
14 ~~online application, or mobile application~~ site or online service,
15 such as an online application or a mobile application, is directed
16 to minors pursuant to paragraph (1), the advertising service shall
17 not market or advertise a product or service on the operator's
18 Internet Web-site, ~~online service, online application, or mobile~~
19 ~~application~~ site or online service, such as an online application
20 or a mobile application, that is described in subdivision (i).

21 (i) The marketing and advertising restrictions described in
22 subdivisions (a) and (b) shall apply to the following products and
23 services as they are defined under state law:

24 (1) Alcoholic beverages, as referenced in Sections 23003 to
25 23009, inclusive, and Section 25658.

26 (2) Firearms or handguns, as referenced in Sections 16520,
27 16640, and 27505 of the Penal Code.

28 (3) Ammunition or reloaded ammunition, as referenced in
29 Sections 16150 and 30300 of the Penal Code.

30 (4) Handgun safety certificates, as referenced in Sections 31625
31 and 31655 of the Penal Code.

32 (5) Aerosol container of paint that is capable of defacing
33 property, as referenced in Section 594.1 of the Penal Code.

34 (6) Etching cream that is capable of defacing property, as
35 referenced in Section 594.1 of the Penal Code.

36 (7) Any tobacco, cigarette, or cigarette papers, or blunt wraps,
37 or any other preparation of tobacco, or any other instrument or
38 paraphernalia that is designed for the smoking or ingestion of
39 tobacco, products prepared from tobacco, or any controlled
40 substance, as referenced in Division 8.5 (commencing with Section

1 22950) and Sections 308, 308.1, 308.2, and 308.3 of the Penal
2 Code.

3 (8) BB device, as referenced in Sections 16250 and 19910 of
4 the Penal Code.

5 (9) Dangerous fireworks, as referenced in Sections 12505 and
6 12689 of the Health and Safety Code.

7 (10) Tanning in an ultraviolet tanning device, as referenced in
8 Sections 22702 and 22706.

9 (11) Dietary supplement products containing ephedrine group
10 alkaloids, as referenced in Section 110423.2 of the Health and
11 Safety Code.

12 (12) Tickets or shares in a lottery game, as referenced in Sections
13 8880.12 and 8880.52 of the Government Code.

14 (13) Salvia divinorum or Salvinorin A, or any substance or
15 material containing Salvia divinorum or Salvinorin A, as referenced
16 in Section 379 of the Penal Code.

17 (14) Body branding, as referenced in Sections 119301 and
18 119302 of the Health and Safety Code.

19 (15) Permanent tattoo, as referenced in Sections 119301 and
20 119302 of the Health and Safety Code and Section 653 of the Penal
21 Code.

22 (16) Drug paraphernalia, as referenced in Section 11364.5 of
23 the Health and Safety Code.

24 (17) Electronic cigarette, as referenced in Section 119405 of
25 the Health and Safety Code.

26 (18) Obscene matter, as referenced in Section 311 of the Penal
27 Code.

28 (19) A less lethal weapon, as referenced in Sections 16780 and
29 19405 of the Penal Code.

30 (j) The marketing and advertising restrictions described in
31 subdivisions (a), (b), and (c) shall not apply to the incidental
32 placement of products or services embedded in content if the
33 content is not distributed by or at the direction of the operator
34 primarily for the purposes of marketing and advertising of the
35 products or services described in subdivision (i).

36 (k) “Marketing or advertising” means, in exchange for monetary
37 compensation, to make a communication to one or more
38 individuals, or to arrange for the dissemination to the public of a
39 communication, about a product or service the primary purpose

1 of which is to encourage recipients of the communication to
2 purchase or use the product or service.

3 SEC. 2. Section 22581 of the Business and Professions Code
4 is amended to read:

5 22581. (a) An operator of an Internet Web-site, ~~online service,~~
6 ~~online application, or mobile application site or online service,~~
7 *such as an online application or a mobile application*, directed to
8 minors or an operator of an Internet Web-site, ~~online service, online~~
9 ~~application, or mobile application site or online service, such as~~
10 *an online application or a mobile application*, that has actual
11 knowledge that a minor is using its Internet Web-site, ~~online~~
12 ~~service, online application, or mobile application site or online~~
13 *service, such as an online application or a mobile application*,
14 shall do all of the following:

15 (1) Permit a minor who is a registered user of the operator's
16 Internet Web-site, ~~online service, online application, or mobile~~
17 ~~application site or online service, such as an online application~~
18 *or a mobile application*, to remove or, if the operator prefers, to
19 request and obtain removal of, content or information posted on
20 the operator's Internet Web-site, ~~online service, online application,~~
21 ~~or mobile application site or online service, such as an online~~
22 *application or a mobile application*, by the user.

23 (2) Provide notice to a minor who is a registered user of the
24 operator's Internet Web-site, ~~online service, online application, or~~
25 ~~mobile application site or online service, such as an online~~
26 *application or a mobile application*, that the minor may remove
27 or, if the operator prefers, request and obtain removal of, content
28 or information posted on the operator's Internet Web-site, ~~online~~
29 ~~service, online application, or mobile application site or online~~
30 *service, such as an online application or a mobile application*, by
31 the registered user.

32 (3) Provide clear instructions to a minor who is a registered user
33 of the operator's Internet Web-site, ~~online service, online~~
34 ~~application, or mobile application site or online service, such as~~
35 *an online application or a mobile application*, on how the user
36 may remove or, if the operator prefers, request and obtain the
37 removal of content or information posted on the operator's Internet
38 Web-site, ~~online service, online application, or mobile application~~
39 *site or online service, such as an online application or a mobile*
40 *application*.

1 (4) Provide notice to a minor who is a registered user of the
2 operator's Internet Web-site, ~~online service, online application, or~~
3 ~~mobile application site or online service, such as an online~~
4 ~~application or a mobile application~~, that the removal described
5 under paragraph (1) does not ensure complete or comprehensive
6 removal of the content or information posted on the operator's
7 Internet Web-site, ~~online service, online application, or mobile~~
8 ~~application site or online service, such as an online application~~
9 ~~or a mobile application~~, by the registered user.

10 (b) An operator or a third party is not required to erase or
11 otherwise eliminate, or to enable erasure or elimination of, content
12 or information in any of the following circumstances:

13 (1) Any other provision of federal or state law requires the
14 operator or third party to maintain the content or information.

15 (2) The content or information was stored on or posted to the
16 operator's Internet Web-site, ~~online service, online application, or~~
17 ~~mobile application site or online service, such as an online~~
18 ~~application or a mobile application~~, by a third party other than the
19 minor, who is a registered user, including any content or
20 information posted by the registered user that was stored,
21 republished, or reposted by the third party.

22 (3) The operator anonymizes the content or information posted
23 by the minor who is a registered user, so that the minor who is a
24 registered user cannot be individually identified.

25 (4) The minor does not follow the instructions provided to the
26 minor pursuant to paragraph (3) of subdivision (a) on how the
27 registered user may request and obtain the removal of content or
28 information posted on the operator's Internet Web-site, ~~online~~
29 ~~service, online application, or mobile application site or online~~
30 ~~service, such as an online application or a mobile application~~, by
31 the registered user.

32 (5) The minor has received compensation or other consideration
33 for providing the content.

34 (c) This section shall not be construed to limit the authority of
35 a law enforcement agency to obtain any content or information
36 from an operator as authorized by law or pursuant to an order of
37 a court of competent jurisdiction.

38 (d) An operator shall be deemed compliant with this section if:

39 (1) It renders the content or information posted by the minor
40 user no longer visible to other users of the service and the public

1 even if the content or information remains on the operator's servers
2 in some form.

3 (2) Despite making the original posting by the minor user
4 invisible, it remains visible because a third party has copied the
5 posting or reposted the content or information posted by the minor.

6 (e) This section shall not be construed to require an operator of
7 an Internet Web-site, ~~online service, online application, or mobile~~
8 ~~application~~ *site or online service, such as an online application*
9 *or a mobile application*, to collect age information about users.

10 (f) "Posted" means content or information that can be accessed
11 by a user in addition to the minor who posted the content or
12 information, whether the user is a registered user or not, of the
13 Internet Web-site, ~~online service, online application, or mobile~~
14 ~~application~~ *site or online service, such as an online application*
15 *or a mobile application*, where the content or information is posted.

16 SEC. 3. Section 22584 of the Business and Professions Code
17 is amended to read:

18 22584. (a) For the purposes of this section, "operator" means
19 the operator of an Internet Web-site, ~~online service, online~~
20 ~~application, or mobile application~~ *site or online service, such as*
21 *an online application or a mobile application*, with actual
22 knowledge that the ~~site, service, or application~~ *Internet Web site*
23 *or online service, such as an online application or a mobile*
24 *application*, is used primarily for K-12 school purposes and was
25 designed and marketed for K-12 school purposes.

26 (b) An operator shall not knowingly engage in any of the
27 following activities with respect to their ~~site, service, or application~~
28 *Internet Web site or online service, such as an online application*
29 *or a mobile application*:

30 (1) (A) Engage in targeted advertising on the operator's ~~site,~~
31 ~~service, or application,~~ *Internet Web site or online service, such*
32 *as an online application or a mobile application*, or (B) target
33 advertising on any other ~~site, service, or application~~ *Internet Web*
34 *site or online service, such as an online application or a mobile*
35 *application*, when the targeting of the advertising is based upon
36 any information, including covered information and persistent
37 unique identifiers, that the operator has acquired because of the
38 use of that operator's ~~site, service, or application~~ *Internet Web site*
39 *or online service, such as an online application or a mobile*
40 *application*, described in subdivision (a).

1 (2) Use information, including persistent unique identifiers,
2 created or gathered by the operator's ~~site, service, or application,~~
3 *Internet Web site or online service, such as an online application*
4 *or a mobile application*, to amass a profile about a K-12 student
5 except in furtherance of K-12 school purposes.

6 (3) Sell a student's information, including covered information.
7 This prohibition does not apply to the purchase, merger, or other
8 type of acquisition of an operator by another entity, provided that
9 the operator or successor entity continues to be subject to the
10 provisions of this section with respect to previously acquired
11 student information.

12 (4) Disclose covered information unless the disclosure is made:

13 (A) In furtherance of the K-12 purpose of the ~~site, service, or~~
14 ~~application,~~ *Internet Web site or online service, such as an online*
15 *application or a mobile application*, provided the recipient of the
16 covered information disclosed pursuant to this subparagraph:

17 (i) Shall not further disclose the information unless done to
18 allow or improve operability and functionality within that student's
19 classroom or school; and

20 (ii) Is legally required to comply with subdivision (d);

21 (B) To ensure legal and regulatory compliance;

22 (C) To respond to or participate in judicial process;

23 (D) To protect the safety of users or others or security of the
24 site; or

25 (E) To a service provider, provided the operator contractually
26 (i) prohibits the service provider from using any covered
27 information for any purpose other than providing the contracted
28 service to, or on behalf of, the operator, (ii) prohibits the service
29 provider from disclosing any covered information provided by the
30 operator with subsequent third parties, and (iii) requires the service
31 provider to implement and maintain reasonable security procedures
32 and practices as provided in subdivision (d).

33 (c) Nothing in subdivision (b) shall be construed to prohibit the
34 operator's use of information for maintaining, developing,
35 supporting, improving, or diagnosing the operator's ~~site, service,~~
36 ~~or application~~ *Internet Web site or online service, such as an online*
37 *application or a mobile application*.

38 (d) An operator shall:

39 (1) Implement and maintain reasonable security procedures and
40 practices appropriate to the nature of the covered information, and

1 protect that information from unauthorized access, destruction,
2 use, modification, or disclosure.

3 (2) Delete a student's covered information if the school or
4 district requests deletion of data under the control of the school or
5 district.

6 (e) Notwithstanding paragraph (4) of subdivision (b), an operator
7 may disclose covered information of a student, as long as
8 paragraphs (1) to (3), inclusive, of subdivision (b) are not violated,
9 under the following circumstances:

10 (1) If other provisions of federal or state law require the operator
11 to disclose the information, and the operator complies with the
12 requirements of federal and state law in protecting and disclosing
13 that information.

14 (2) For legitimate research purposes: (A) as required by state
15 or federal law and subject to the restrictions under applicable state
16 and federal law or (B) as allowed by state or federal law and under
17 the direction of a school, school district, or state department of
18 education, if no covered information is used for any purpose in
19 furtherance of advertising or to amass a profile on the student for
20 purposes other than K–12 school purposes.

21 (3) To a state or local educational agency, including schools
22 and school districts, for K–12 school purposes, as permitted by
23 state or federal law.

24 (f) Nothing in this section prohibits an operator from using
25 deidentified student covered information as follows:

26 (1) Within the operator's ~~site, service, or application~~ *Internet*
27 *Web site or online service, such as an online application or a*
28 *mobile application, or other sites, services, or applications* *Internet*
29 *Web sites or online services, such as online applications or mobile*
30 *applications*, owned by the operator to improve educational
31 products.

32 (2) To demonstrate the effectiveness of the operator's products
33 or services, including in their marketing.

34 (g) Nothing in this section prohibits an operator from sharing
35 aggregated deidentified student covered information for the
36 development and improvement of educational ~~sites, services, or~~
37 ~~applications~~ *Internet Web Sites or online services, such as online*
38 *applications or mobile applications*.

1 (h) “Online service” ~~includes~~ *includes, but is not limited to,*
2 cloud computing services, which must comply with this section if
3 they otherwise meet the definition of an operator.

4 (i) “Covered information” means personally identifiable
5 information or materials, in any media or format that meets any
6 of the following:

7 (1) Is created or provided by a student, or the student’s parent
8 or legal guardian, to an operator in the course of the student’s,
9 parent’s, or legal guardian’s use of the operator’s ~~site, service, or~~
10 ~~application~~ *Internet Web site or online service, such as an online*
11 *application or a mobile application*, for K–12 school purposes.

12 (2) Is created or provided by an employee or agent of the K–12
13 school, school district, local education agency, or county office of
14 education, to an operator.

15 (3) Is gathered by an operator through the operation of ~~a site,~~
16 ~~service, or application~~ *an Internet Web site or online service, such*
17 *as an online application or a mobile application*, described in
18 subdivision (a) and is descriptive of a student or otherwise
19 identifies a student, including, but not limited to, information in
20 the student’s educational record or email, first and last name, home
21 address, telephone number, email address, or other information
22 that allows physical or online contact, discipline records, test
23 results, special education data, juvenile dependency records, grades,
24 evaluations, criminal records, medical records, health records,
25 social security number, biometric information, disabilities,
26 socioeconomic information, food purchases, political affiliations,
27 religious information, text messages, documents, student identifiers,
28 search activity, photos, voice recordings, or geolocation
29 information.

30 (j) “K–12 school purposes” means purposes that customarily
31 take place at the direction of the K–12 school, teacher, or school
32 district or aid in the administration of school activities, including,
33 but not limited to, instruction in the classroom or at home,
34 administrative activities, and collaboration between students, school
35 personnel, or parents, or are for the use and benefit of the school.

36 (k) This section shall not be construed to limit the authority of
37 a law enforcement agency to obtain any content or information
38 from an operator as authorized by law or pursuant to an order of
39 a court of competent jurisdiction.

1 (l) This section does not limit the ability of an operator to use
2 student data, including covered information, for adaptive learning
3 or customized student learning purposes.

4 (m) This section does not apply to general audience Internet
5 ~~Web sites, sites or~~ general audience online services, *such as* general
6 ~~audience online applications, applications or~~ general audience
7 mobile applications, even if login credentials created for an
8 operator's ~~site, service, or application~~ *Internet Web Sites or online*
9 *service, such as online application or a mobile application*, may
10 be used to access those general audience ~~sites, services, or~~
11 ~~applications. Internet Web site or online services, such as an online~~
12 ~~applications or mobile applications.~~

13 (n) This section does not limit Internet service providers from
14 providing Internet connectivity to schools or students and their
15 families.

16 (o) This section shall not be construed to prohibit an operator
17 of an Internet Web ~~site, online service, online application, or~~
18 ~~mobile application~~ *site or online service, such as an online*
19 *application or a mobile application*, from marketing educational
20 products directly to parents so long as the marketing did not result
21 from the use of covered information obtained by the operator
22 through the provision of services covered under this section.

23 (p) This section does not impose a duty upon a provider of an
24 electronic store, gateway, marketplace, or other means of
25 purchasing or downloading software or applications to review or
26 enforce compliance of this section on those applications or
27 software.

28 (q) This section does not impose a duty upon a provider of an
29 interactive computer service, as defined in Section 230 of Title 47
30 of the United States Code, to review or enforce compliance with
31 this section by third-party content providers.

32 (r) This section does not impede the ability of students to
33 download, export, or otherwise save or maintain their own student
34 created data or documents.

35 SEC. 4. Section 1798.81.5 of the Civil Code is amended to
36 read:

37 1798.81.5. (a) (1) It is the intent of the Legislature to ensure
38 that personal information about California residents is protected.
39 To that end, the purpose of this section is to encourage businesses

1 that own, license, or maintain personal information about
2 Californians to provide reasonable security for that information.

3 (2) For the purpose of this section, the terms “own” and
4 “license” include personal information that a business retains as
5 part of the business’ internal customer account or for the purpose
6 of using that information in transactions with the person to whom
7 the information relates. The term “maintain” includes personal
8 information that a business maintains but does not own or license.

9 (b) A business that owns, licenses, or maintains personal
10 information about a California resident shall implement and
11 maintain reasonable security procedures and practices appropriate
12 to the nature of the information, to protect the personal information
13 from unauthorized access, destruction, use, modification, or
14 disclosure.

15 (c) A business that discloses personal information about a
16 California resident pursuant to a contract with a nonaffiliated third
17 party that is not subject to subdivision (b) shall require by contract
18 that the third party implement and maintain reasonable security
19 procedures and practices appropriate to the nature of the
20 information, to protect the personal information from unauthorized
21 access, destruction, use, modification, or disclosure.

22 (d) For purposes of this section, the following terms have the
23 following meanings:

24 (1) “Personal information” means *either of the following*: ~~an~~

25 (A) An individual’s first name or first initial and his or her last
26 name in combination with any one or more of the following data
27 elements, when either the name or the data elements are not
28 encrypted or redacted:

29 ~~(A)~~

30 (i) Social security number.

31 ~~(B)~~

32 (ii) Driver’s license number or California identification card
33 number.

34 ~~(C)~~

35 (iii) Account number, credit or debit card number, in
36 combination with any required security code, access code, or
37 password that would permit access to an individual’s financial
38 account.

39 ~~(D)~~

40 (iv) Medical information.

1 (v) *Health insurance information.*

2 (B) *A username or email address, in combination with a*
3 *password or security question and answer that would permit access*
4 *to an online account.*

5 (2) “Medical information” means any individually identifiable
6 information, in electronic or physical form, regarding the
7 individual’s medical history or medical treatment or diagnosis by
8 a health care professional.

9 (3) “*Health insurance information*” means an individual’s
10 insurance policy number or subscriber identification number, any
11 unique identifier used by a health insurer to identify the individual,
12 or any information in an individual’s application and claims
13 history, including any appeals records.

14 ~~(3)~~

15 (4) “Personal information” does not include publicly available
16 information that is lawfully made available to the general public
17 from federal, state, or local government records.

18 (e) The provisions of this section do not apply to any of the
19 following:

20 (1) A provider of health care, health care service plan, or
21 contractor regulated by the Confidentiality of Medical Information
22 Act (Part 2.6 (commencing with Section 56) of Division 1).

23 (2) A financial institution as defined in Section 4052 of the
24 Financial Code and subject to the California Financial Information
25 Privacy Act (Division 1.2 (commencing with Section 4050) of the
26 Financial Code).

27 (3) A covered entity governed by the medical privacy and
28 security rules issued by the federal Department of Health and
29 Human Services, Parts 160 and 164 of Title 45 of the Code of
30 Federal Regulations, established pursuant to the Health Insurance
31 Portability and Availability Act of 1996 (HIPAA).

32 (4) An entity that obtains information under an agreement
33 pursuant to Article 3 (commencing with Section 1800) of Chapter
34 1 of Division 2 of the Vehicle Code and is subject to the
35 confidentiality requirements of the Vehicle Code.

36 (5) A business that is regulated by state or federal law providing
37 greater protection to personal information than that provided by
38 this section in regard to the subjects addressed by this section.
39 Compliance with that state or federal law shall be deemed
40 compliance with this section with regard to those subjects. This

- 1 paragraph does not relieve a business from a duty to comply with
- 2 any other requirements of other state and federal law regarding
- 3 the protection and privacy of personal information.

O